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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

9 DURRELL ANTHONY PUCKETT,  
10 Plaintiff,  
11 v.  
12 BARAONA, *et al.*,  
13 Defendants.

Case No. 1:21-cv-01448-KES-BAM (PC)

ORDER CONSTRUING FILING AS MOTION  
FOR ATTENDANCE OF INCARCERATED  
WITNESSES AND REQUEST FOR COURT  
ORDER REGARDING WILLINGNESS OF  
INCARCERATED WITNESSES TO TESTIFY  
(ECF No. 142)

ORDER DENYING AS MOOT REQUEST  
FOR COURT ORDER REGARDING  
WILLINGNESS OF INCARCERATED  
WITNESSES TO TESTIFY  
(ECF No. 142)

**ORDER HOLDING IN ABEYANCE  
PLAINTIFF'S MOTIONS FOR  
ATTENDANCE OF INCARCERATED  
WITNESSES  
(ECF Nos. 142, 145, 147)**

## Opposition to Motions for Attendance of Incarcerated Witnesses: December 16, 2025

22 Plaintiff Durrell Anthony Puckett (“Plaintiff”) is a state prisoner proceeding *pro se* and *in*  
23 *forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case is set for a jury  
24 trial before District Judge Kirk E. Sherriff on March 10, 2026, on Plaintiff’s claims against:  
25 (1) Defendants Baraona, Burnitzki, Leos, Hernandez, and Diaz for excessive force in violation of  
26 the Eighth Amendment; (2) Defendant Leos for sexual assault in violation of the Eighth  
27 Amendment; and (3) Defendants A. Ruiz, E. Ruiz, Meier, Gutierrez, Allison (Cronister), and  
28 Price for failure to protect in violation of the Eighth Amendment.

1       On May 16, 2025, the Court issued a Second Scheduling Order setting the relevant pretrial  
2 filing deadlines and dates for the pretrial conference and jury trial in this action. (ECF No. 135.)  
3 Pursuant to the Second Scheduling Order, the deadline for Plaintiff to file a motion for attendance  
4 of incarcerated witnesses was November 18, 2025. The deadline for the filing of any opposition  
5 to the motion for attendance of incarcerated witnesses is December 16, 2025. (*Id.*)

6       On August 21, 2025, Plaintiff filed a “Notice and Request of the Court.” (ECF No. 142.)  
7 Plaintiff identifies two incarcerated witnesses who agreed to testify on Plaintiff’s behalf, and  
8 includes affidavits from each witness, signed under penalty of perjury. However, Plaintiff states  
9 that due to mental health complications and CDCR not allowing correspondence between  
10 inmates, Plaintiff is unsure if these inmates are still willing to testify or remember the issues in  
11 this suit. Plaintiff requests that if the Court grants his request for these witnesses to testify, that  
12 the Court issue an order allowing them to file an opposition if they do not agree to testify now or  
13 have any underlying mental health conditions. (*Id.*)

14       Upon review of the filing, the Court finds it appropriate to construe the filing as a motion  
15 for attendance of incarcerated witnesses and request for Court order regarding willingness of  
16 incarcerated witnesses to testify. Defendants have not had an opportunity to respond to Plaintiff’s  
17 request for a Court order, but the Court finds a response to this request unnecessary. This portion  
18 of the motion is deemed submitted. Local Rule 230(l).

19       Plaintiff’s request for a Court order regarding the willingness of Plaintiff’s proposed  
20 incarcerated witnesses to testify is denied as unnecessary. Plaintiff has provided affidavits from  
21 each inmate, signed under penalty of perjury, indicating that at the time of signing, each inmate  
22 was willing to testify and remembered the relevant events. If the Court grants Plaintiff’s request  
23 for attendance of these witnesses at trial, the witnesses will have the opportunity to respond to the  
24 Court’s order directing their attendance at trial with any opposition.

25       At this time, the Court will hold in abeyance Plaintiff’s motion for attendance of these  
26 witnesses at trial, as well as Plaintiff’s subsequent motions regarding his additional incarcerated  
27 witness. (ECF Nos. 142, 145, 147.) Pursuant to the May 16, 2025 Second Scheduling Order, any  
28 opposition to Plaintiff’s motions for attendance of incarcerated witnesses remains due on or

1 before **December 16, 2025**. (ECF No. 135.)

2 Accordingly, IT IS HEREBY ORDERED as follows:

3 1. Plaintiff's August 21, 2025 filing, (ECF No. 142), is CONSTRUED as a motion for  
4 attendance of incarcerated witnesses and request for Court order regarding willingness of  
5 incarcerated witnesses to testify;

6 2. Plaintiff's request for Court order regarding willingness of incarcerated witnesses to  
7 testify, (ECF No. 142), is DENIED, as unnecessary;

8 3. Plaintiff's motions for attendance of incarcerated witnesses, (ECF Nos. 142, 145, 147), are  
9 HELD IN ABEYANCE pending expiration of the opposition deadline; and

10 4. Any opposition to the motions for the attendance of incarcerated witnesses shall be filed  
11 on or before **December 16, 2025**.

12 IT IS SO ORDERED.

13 Dated: November 20, 2025

14 /s/ Barbara A. McAuliffe  
15 UNITED STATES MAGISTRATE JUDGE

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